

INFORMATION SHEET
DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE
WATERS RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF
NORTHERN COOK COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: OMAHA DIST DRO

FILE NUMBER: 200580398

REGULATORY PROJECT MANAGER: MCKEE

PROJECT REVIEW/DETERMINATION COMPLETED: In the office ☐ Date: ☐
 At the project site ☒ Date: June 30, 2005

PROJECT LOCATION INFORMATION:

State: CO

County: Arapahoe

Center coordinates of site by latitude & longitudinal coordinates: 39 42 54, 104 52 51

Approximate size of site/property (including uplands & in acres): 640

Name of waterway or watershed: Middle south Platte-Cherry Creek

SITE CONDITIONS: ☒ Rural ☐ Agricultural

Type of aquatic resource ¹	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands							x		
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹ :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			x		
Is or would be used as habitat by other migratory birds that cross state lines?			x		
Is or would be used as habitat for endangered species?					x
Is used to irrigate crops sold in interstate commerce?					

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: ☒ Approved ☐ Preliminary

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite):

The wetlands behind the Westerly Creek Flood Control Dam are isolated from the local tributary system of Westerly Creek. These wetlands resulted from the construction of a detention flood control dam that receives storm water run off from stormwater sewers. These wetlands are not identified as a tributary and the water flowing from these wetlands flows under ground. This under ground flow does not exist as a tributary place into an under ground pipe. These wetlands are above the headwaters of Westerly Creek. These wetlands are neither adjacent, neighboring nor surface connected to a waters of the U.S. . As stated in an August 24, 1995 letter to Mr. Thomas O. Markham, Lowry Redevelopment Authority, these wetlands were determined to be isolated.